

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

SURINDERPAL SINGH,

Petitioner,

CIVIL ACTION NO. 07-11314

CRIMINAL NO. 04-80918

v.

HON. GEORGE CARAM STEEH

UNITED STATES OF AMERICA,

Defendant.

_____ /

ORDER DENYING PETITIONER'S MOTION FOR
CERTIFICATE OF APPEALABILITY (DOC # 40)

Petitioner, whose pro se 28 U.S.C. § 2255 motion to vacate, set aside, or correct sentence was denied by the court on June 19, 2007, has filed a "Notice of Appeal and Leave to Obtain Certification of Appealability Pursuant to 28 U.S.C. § 2253." To support this motion, petitioner contends the government intentionally failed to serve him with a copy of its responsive pleading filed May 11, 2007, thereby denying him a due process right to defend himself. Petitioner further argues, as he did in his initial pleadings, that had his counsel pursued a reasonable plea offer during pretrial negotiations, he would have been receptive to a settlement of 40-51 months. Additionally, petitioner again prays for this court to consider his family's medical condition as a premise for relief.

28 U.S.C. § 2253 mandates that a certificate of appealability may be issued if the applicant has made a substantial showing of the denial of a constitutional right. The applicant must also state with specificity the issues that created a deprivation of a constitutional right. This rule was codified in the ruling of Barefoot v. Estelle, 463 U.S. 880 (1983). Barefoot ruled the petitioner, "must demonstrate that the issues are debateable among jurists of reason; that a court could resolve the issues [in a different

manner]; or that the questions are ‘adequate to deserve encouragement to proceed further.’” Id. at 893.

Concerning petitioner’s unsupported assertion that the government intentionally failed to provide a copy of the responsive pleading filed May 11, 2007, whether or not petitioner received a copy was not prejudicial, as the government clearly demonstrated the § 2255 motion was without merit.¹ Petitioner’s assertions concerning no plea offer and his family’s medical circumstances have no impact on constitutional rights, and therefore are without merit. As there has been no showing of a substantial denial of a constitutional right by petitioner, the motion for a certificate of appealability is hereby DENIED.

IT IS SO ORDERED.

Dated: August 20, 2007

S/George Caram Steeh

GEORGE CARAM STEEH

UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

Copies of this Order were served upon attorneys/parties of record on August 20, 2007, by electronic and/or ordinary mail.

S/Josephine Chaffee

Deputy Clerk

¹Petitioner’s “Motion to Strike” (Doc. #37) is likewise denied for the reason that the court finds petitioner has no basis to prevail on his § 2255 motion. Similarly, petitioner’s motion for “Leave to File Addendum to Substantiate his Motion to Obtain Certificate of Appealability” (Doc. #42) is also denied as it lacks merit for the same reasons as the § 2255, motion to strike, and certificate of appealability motions.